

# OPTIONS FOR LIBRARY SERVICE IN CALIFORNIA GENERAL LAW CITIES

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## **Introduction:**

A California general law city has three basic options for organizing and operating public library service:

1. Being served by the County Free Library.
2. Establishing a municipal library, to be administered either by a Board of Library Trustees as a department of city government, or by contract with some other jurisdiction administering a library.
3. Establishing a library district independent of city or county government, with its own separately elected Board of Library Trustees.

Each of those options has specified funding sources available to underwrite the library's operating budget.

Those three options, with their principal funding sources, are described below. Following them is a description of other funding sources available.

## *A. OPTIONS FOR ORGANIZING GENERAL LAW CITY PUBLIC LIBRARY SERVICE.*

### **1. County Free Library Law** (Education Code Sections 19100-19180)

This is the organizational method used to serve approximately three-fourths of all California cities. The County Free Library is established under the Board of Supervisors to serve all areas that are not otherwise taxed for free library service (typically, pre-existing areas would be served by independent city libraries).

Most of the existing county libraries had a dedicated tax rate prior to Prop. 13, and retain their prorata share of that rate.

Several county libraries in rural counties did not levy a tax rate, have no dedicated tax base, and are primarily funded from the county general fund. With the State seen as not adequately funding the costs of mandated health, welfare and justice programs, such rural counties turn to the library as one of the general fund departments whose budget can be reduced so as to cover cost of the mandates.

In attempting to compensate for such reduction, in many such general fund rural counties, cities with branch libraries operated by the county library may contribute city funds to the county to enable the local branch library to remain in operation.

Education Code sec. 19173 permits the Board of Supervisors to establish a Special Taxing Zone for a given area, to provide services beyond those generally provided by the County Library. No Zone has been established since the enactment in 1978 of Proposition 13; presumably a special tax (described elsewhere in this paper) or other source would be needed to fund that. Similarly, the County Service Area law (Government Code §25210.70 et seq, including but not limited to §25210.77a), separately or in combination with the Mello-Roos Communities Facilities District law (Government Code §53321, 53342), provide counties the ability to levy benefit assessments or service charges to support libraries in cities, with city concurrence.

## *2. MUNICIPAL LIBRARIES*

### **2a. Municipal Library** (Education Code secs. 18900-18965)

This is the most common method of organizing independent library service in general law cities. About half of the 106 cities that operate their own libraries are general law cities, and use this form of organization. (The other half are charter cities, organizing their libraries under home rule.)

The library, although a department of city government, is uniquely administered by a Board of Library Trustees appointed by the City Council. Its funding is by allocation from the city's general fund as part of the annual budget process. If the library employees are covered by the city's personnel ordinance, they are the employees of the City; if not in the personnel ordinance, they are employees of the Board of Trustees. The Trustees have complete policy control over all other matters affecting the library, including execution of the budget once it has been annually approved by the City Council.

### **2b. Contract with an existing library** (Using Joint Exercise of Powers, Government Sections 6500 - 6578)

This method permits a jurisdiction that has established a library, but does not wish to administer its own library service, to make service available to its residents by contract with one or more jurisdictions that already provide library services to their own residents. Funding to pay the City's contractual costs is by whatever means is available to the City.

The only examples are ones in which a county contracts with a city or with another county for library service. E.g., in the Riverside City-County Library, the City has an established library, and the county contracts with it to provide and administer library service in the county areas.

As of this writing one city is in the process of withdrawing from a county library and establishing a municipal library, but receiving service by contract with another city's municipal library. There is no other example of a city with an established library so contracting. There are, however, three "island" cities that do not have library facilities within the city limits, that contract with their surrounding cities for access to those cities' library services: Emeryville, Piedmont, and Hillsborough.

### 3. DISTRICT LIBRARIES

#### 3a. Library District (Education Code Sections 18400-19352)

This method establishes an independent special district within such boundary lines as may be desired (e.g., city boundaries). Voters directly elect a Board of Trustees whose sole responsibility is to govern the district. Three cities are served by districts so established: Blythe (by the Palo Verde Valley Library District in Riverside County), Crescent City (by the Del Norte County Library District), and Susanville (by the Susanville Library District).

#### 3b. Unified School District or Union High School District Public Library District (Education Code secs. 18300-18751)

This method establishes an independent special public library district within the same boundaries as an existing school district. The Board of School District Trustees also sit as the Board of Public Library Trustees. The cities of Banning, Coalinga, Huron, Dixon and Santa Paula are served by School District Public Library Districts (although the last is exploring legislation to withdraw from the school district and become a separate district under §18400 et seq. above). The city of Vacaville is also within a USD Library District, but contracts with the County Library to operate the service rather than itself administer it.

#### (3c. Library Districts and Museums in Unincorporated Towns and Villages (Education Code secs. 19600-19734)

(This method is not available to incorporated towns and villages. Although a few general law cities today are served by library districts organized under this authority, those districts were organized prior to incorporation of the cities served.)

### 4. NON-PROFIT PUBLIC BENEFIT CORPORATION (Corporations Code secs. 5110-6910)

Interested persons frequently ask about organizing a public library as a non-profit corporation. There are many technical and policy issues involved. No public library (as the term is commonly used) in California is so organized.

A non-profit corporation is governed by a Board of Directors who are real people, not municipal corporations. However, the Articles could specify that board members be from municipal bodies etc.

A municipality could contract with a non-profit corporation for library service. Funding would be by contract with the city and by donation from local organizations, companies and individuals.

It is not clear if a non-profit corporation would be eligible to claim subsidies under state legislation in the same manner as do *jurisdictions* that administer libraries. If a library were to be operated by other than a public jurisdiction, the State Librarian, as administrator of the state legislation involved, would have to determine if the library somehow qualified. That would best be done if the library (or any jurisdiction involved) wrote a formal request to make a determination, enclosing any relevant documents. The State Librarian would then seek legal advice, and such other advice as appropriate, and make his determination.

## **B. FISCAL FACTORS AND OPTIONS**

### *1. TRANSFER OF FUNDS TO NEW PROVIDER JURISDICTION (Revenue and Taxation Code sec. 95.5)*

If the responsibility for tax-funded library service is transferred from an existing provider jurisdiction (e.g., the county) to a new one (e.g., the city), there is transferred to the new provider a to-be-determined amount of property tax from the existing provider. The determination is by negotiation between the two jurisdictions involved; different counties have different approaches to the amount of property tax transferred. The respective Gann limits are also adjusted prorata. This system is intended to make no change in the overall amount of taxes paid by an individual taxpayer.

If the new jurisdiction is a general law city, then the property tax amount so shifted goes into the city's general fund, to be allocated in the budget process. If it is a special district library, it goes to the district itself as the library's baseline income.

The amount of property tax received by the new provider jurisdiction will change over time in proportion to the change in the assessed value of the jurisdiction's property tax base.

### *2. SPECIAL TAXES (Constitution Article XIII A)*

In addition to the funding methods specified for the various forms of organization outlined above, the parent jurisdiction of any library organized under the above methods can put before its voters a "special tax" election, as long as the tax base to be used is not the ad valorem (assessed value) of real property. Approval by two-thirds of those voting is required to adopt the tax. Typical bases for special taxes are parcels; dwelling units; or square feet of residential, commercial or industrial property, with different rates for each. Various classes of taxpayers can be excluded from the taxation if desired (e.g. seniors or low-income people). The State Library has a summary of special taxes adopted for library operations.

Income from a special tax falls within the jurisdiction's Gann limit (Constitution Article XIII B).

### *3. MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982 (Government Code Sections 53311-53365.7.)*

Although Mello-Roos is most often used for capital projects, it can be used for library services as well. It is not a method of organizing service, but of financing it. A Mello-Roos district is a financing shell, under the City Council in this example. Funding would require two-thirds voter approval of a "special tax," as described above.

Since a Mello-Roos district is a new government entity, it has its own new Gann limit separate from that of the sponsoring jurisdiction. Following formation of the district by the sponsoring jurisdiction, an election will have two elements to be approved: the special tax, and a Gann limit for the district. One library, Modoc County Library, is so financed.

If the jurisdiction is at or near its Gann limit, Mello-Roos makes sense. Otherwise, it may be easier to explain a single issue, the special tax, rather than the three elements involved in Mello-Roos formation.

#### 4. LAKEWOOD PLAN

Any city served by a county library, could, using any available funds, contract with the county for enhanced service levels beyond those generally provided throughout the County Library service area. (This assumes that county policy permits non-uniform service levels.)

The name for this method of a city's contracting with a county for services originated with the then-new City of Lakewood (Los Angeles County), which upon incorporation chose to contract with the County for certain services instead of becoming a full-service city. In addition to other county-provided services, the Lakewood branch of the County Library, although within the taxed service area of the County Library, offers hours, staffing and collections beyond the levels in similar communities elsewhere in the County Library service area.

A similar arrangement is in effect in the Los Altos-Los Altos Hills branch of the Santa Clara County Library. A Joint Exercise of Powers agency was formed, to (successfully) conduct an election to levy a special tax to provide enhanced services. Similarly, Davis, served by the Yolo County Library, had a successful Mello-Roos election both to build a building, and to operate it at enhanced levels.

#### 5. UTILITY TAXES AND OTHER EXCISE TAXES

A city can on its own motion enact an ordinance for a utility excise tax, a transient occupancy (bed) tax, or any other excise tax. These go into the general fund for distribution through the budget process. Many cities have adopted such taxes for specified purposes, and as a matter of policy (not of law) have hewed to those commitments. (Of course, for capital projects, not operating budgets, such taxes can be dedicated to servicing limited obligation bonds.) Please note that some legal authorities may caution against enacting any new excise tax without two-thirds voter approval, because of the views of two members of the current California Supreme Court expressed in a concurring opinion in *Rider v. County of San Diego*, December 1991.)

#### 6. REDEVELOPMENT INCREMENTS

Although the tax increments from redevelopment may not directly be used to support library operations, redevelopment agreements negotiated between a city redevelopment agency and a county have provided multi-year payments to the county, and those payments can in turn be used by the county to support library operations.

#### 7. SPECIAL ASSESSMENTS

Several counties have enacted "special assessments" or "benefit assessments" (see A.1. above) to support county-administered libraries in cities, although in other counties, counsel question the validity of such proceedings. Special assessments are levied on owners of real property, according to a formula based on the benefit to the real property owner. A special assessment formula will look very similar to a special tax formula as under B.2 above.

#### (8. CITY SALES TAX)

(Local sales tax elections to support libraries are not available to cities without specific enabling legislation. A two-thirds vote would likely be required under guidelines from a December 1991 California Supreme Court decision, *Rider v. County of San Diego*.)

9. *COUNTY SALES TAX* (Revenue and Taxation Code Section 7285.5)

The *Rider* decision above appears to have made irrelevant that part of an existing statute that provided for a half-cent sales tax, or alternatively a quarter-cent sales tax, for specified program or projects in both incorporated and unincorporated areas. The disallowed provision required passage by only a simple majority (50%) of the voters in any county. However, such a tax can be enacted by simple majority vote if it is not earmarked and instead goes into the general fund.

**C. CONSTRUCTION OF LIBRARIES**

Those interested in public library capital projects should request the current edition of the State Library's *Financing California Public Library Buildings*.